

REMARKS

Claims 27 and 33 are currently amended. Claims 23-28, 33 and 34 are currently pending, of which claims 23-26 are allowed. Claims 27, 28, 33 and 34 are rejected. Reconsideration of the application in view of the current claims is respectfully requested and further in view of the following Remarks.

I. ALLOWABLE SUBJECT MATTER

Applicant acknowledges with appreciation the Examiner's indication that claims 23-26, and currently cancelled claims 29-32, and 35-38 are directed to allowable subject matter.

II. CLAIM REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

A. Written Description

The Examiner has rejected claims 27, 28, 33, and 34 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The claims allegedly contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection.

The Examiner asserts that:

"the rejected claims recite in general a method of assigning a prognosis to a patient with or diagnosed with acute coronary syndrome, and relating the binding of the markers to the prognosis, without specifying the particular type of prognosis. Moreover, Applicants do not provide written description or guidance to other types of prognoses that can be made with the detection of the combination of these markers." Office Action, page 3.

Claims 27 and 33 are amended herein to recite "wherein said prognosis is subsequent myocardial infarction, subsequent onset of angina, subsequent onset of congestive heart failure, or subsequent death." The Examiner has acknowledged that these prognoses "are actually described in the specification." *Id.* Therefore, claims 27 and 33 – as well as claims 28 and 34 which depend from claims 27 and 33, respectively – meet the written description requirement of 35 U.S.C. § 112, first paragraph. Applicants respectfully request that the Examiner withdraw this rejection.

B. Enablement

The Examiner has also rejected claims 27, 28, 33, and 34 under 35 U.S.C. §112, first paragraph, as allegedly not providing enablement for the claimed methods as they relate to “assigning a prognosis, in general.” Office Action, page 3. Applicants respectfully traverse this rejection.

Claims 27 and 33 are amended herein to recite “wherein said prognosis is subsequent myocardial infarction, subsequent onset of angina, subsequent onset of congestive heart failure, or subsequent death.” The Examiner has acknowledged that the specification is “enabling for the method as it relates to a method for predicting cardiac mortality rate or a method of assigning a prognosis of subsequent myocardial infarction, or subsequent onset of angina, or subsequent onset of congestive heart failure, or subsequent death.” *Id.* (emphasis added). Therefore, claims 27 and 33 – as well as claims 28 and 34 which depend from claims 27 and 33, respectively – meet the enablement requirement of 35 U.S.C. §112, first paragraph. Applicants respectfully request that the Examiner withdraw this rejection.

C. Summary

Based on the reasons provided above, withdrawal of the rejection of claims 27, 28, 33 and 34 under 35 U.S.C. 112, first paragraph, is respectfully requested. As the Examiner has indicated the allowability of claims 23-26 and previously pending claims 29-32 and 35-38, Applicants respectfully assert that all claims are currently allowable.

CONCLUSION

For the foregoing reasons, Applicant requests the Examiner allow claims 23-28, 33 and 34 and advance the application to issuance.

U.S. Application Serial No. 09/835,298
Amendment Dated May 22, 2009
Reply to Non-Final Office Action of March 13, 2009

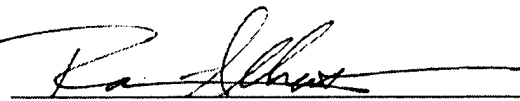
FEE AUTHORIZATION

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. **23-2415** (Docket No.36671-742.201).

Respectfully submitted,

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By: _____



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